

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDWARD D. MCBRAYER,

Defendant.

Case No. 17-03111-01-CR-S-MDH

MOTION FOR DETENTION

The United States of America, by and through its undersigned counsel, moves this Court to order the detention of the defendant, Edward D. McBrayer, and states the following in support of the motion:

1. An indictment has been filed charging McBrayer with being a felon in possession of a firearm and ammunition, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

2. Title 18, United States Code, Section 3142(f) provides, in pertinent part, that a hearing must be held by the appropriate judicial officer to determine whether any condition or combination of conditions “will reasonably assure the appearance of such person as required and the safety of any other person and the community” if the attorney for the Government moves for such a hearing and the case involves:

“(E) any felony that is not otherwise a crime of violence that involves...the possession or use of firearm....”

3. On or about April 20, 2016, McBrayer possessed a stolen and loaded, Charter Arms brand, Pink Lady model, .38-caliber revolver; and a plastic bags that contained .77 gram of methamphetamine. In a post-*Miranda* interview, McBrayer said, “Only reason I had the gun man, I been shot twice man.”

4. McBrayer has prior felony convictions for trafficking in the second degree, assault in the first degree, armed criminal action, and attempted assault in the second degree.

5. In McBrayer's assault in the first degree case, McBrayer pleaded guilty to shooting at two victims in an attempt to kill or cause serious physical injury to them.

6. The United States submits that there is clear and convincing evidence that there are no conditions that the Court could place on McBrayer's release that would reasonably assure McBrayer's appearance in Court and the safety of the community. *See* 18 U.S.C. § 3142(g)(1) nature and circumstances of the offense; (2) weight of the evidence; (3)(A) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings, and (B) whether the defendant was on probation/parole at the time of the offense; and (4) danger to the community or other persons. Because of this, the United States requests that a detention hearing be held and that McBrayer be detained. *See generally, United States v. Sazenski*, 806 F.2d 846, 848 (8th Cir. 1986); *United States v. Warren*, 787 F.2d 1337, 1338 (8th Cir. 1986).

WHEREFORE, based on the foregoing, the United States requests that the Court hold a detention hearing in accordance with 18 U.S.C. § 3142(f), and following such hearing, order the detention of McBrayer.

Respectfully,

Timothy A. Garrison
United States Attorney

By /s/ Nhan D. Nguyen
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on April 10, 2018, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/s/ Nhan D. Nguyen
Nhan D. Nguyen
Assistant United States Attorney